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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KOSTAK, VICTOR R

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 04/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/754,355

Applicant(s)  
Moon

Examiner  
Victor R. Kostak

Art Unit  
2611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 6 and 7, "the other channel" has ambiguous antecedence. No other channel has been recited nor is implied.

In claim 7, reference to "the pertinent channel" also has ambiguous antecedence and is not clearly identifiable relative to the rest of the claim and its base claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for a patent published under section 122(b), by another filed in the United States before the invention by the applicant for a patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United states and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Gerba et al.

The program selection system of Gerba involves making available access to a large range of programming including digital television (e.g. col. 2 lines 53-59), wherein the receiving unit (not shown) can carry out digital processing of MPEG encoded streams (col. 6 lines 60-63). Gerba

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includes a RAM for storing identifiers including channel icons (col. 15 lines 40-53) and although he does not describe hardware in explicit terms (col. 27 lines 6-18), he does point out that the channel selection is carried out using a sub-routine (Figs. 32A and 32B), which requires a computer chip (i.e. a CPU). The channel icon is displayed (902 in Fig. 33) and stored per respective broadcast channel (col. 12 lines 2-4; col. 14 lines 22-29; col. 15 lines 48-53; col. 29 lines 21-64), thereby meeting claim 1.

As for claim 2, Gerba enables both digital and analog processing of broadcast signals (col. 6 lines 60-61; col. 10 lines 10-12 which refers to mode button 104 for selecting cable or TV modes; col. 27 line 33; col. 5 lines 30-32).

As for claim 3, Gerba mentions plural memory chips (e.g. col. 6 lines 62-63), storage of domain icons in a main unit RAM in table form (col. 15 lines 46-53) which include channel icons (Fig. 33), as well as storage of auxiliary data, such as graphics (e.g. col. 8 lines 18-37); note further subroutine execution of various programs shown in Figs. 26, 27, 28, +).

Regarding claim 4, note Fig. 37A which depicts channel icons and programs associated therewith. Gerba mentions a common RAM (col. 15 line 49) and memory chips in general (col. 6 lines 63), as mentioned previously, from which the program guide data and icons would all be retrieved.

As for claim 5, Figs. 32A and 32B depict the channel up/down functions for accessing specific channels, wherein a channel icon is searched and displayed (Fig. 33).

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As for claim 6 (as best understood), selection of another channel is carried out as so desired by the user, and in a repetitive fashion until a specific program (and associated icon) are selected.

Regarding claim 7 (as best understood), the program is accordingly displayed upon deciding that that program is the one desired to be viewed, as Fig. 32A-32D show the process of selecting a channel including when the user does not select the up/down key (which would go to another channel).

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (703)-305-4374. The examiner can normally be reached on Monday through Friday from 6:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone (703) 306-0377.

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**Any response to this action should be mailed to:**

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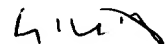
**or faxed to:**

(703) 872-9314 (For either formal or informal communications intended for entry. For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

**Victor R. Kostak**

**Primary Examiner**



VRK

4/8/03